

**DEPARTMENT OF STATE REVENUE
REVENUE RULING ST 98-06**

June 11, 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax – Transfer of An Aircraft from a Subsidiary to its Parent

Authority: IC 6-2.5-2-1, IC 6-2.5-3-2, IC 6-2.5-4-1

The taxpayer requests the Department to rule on the application of sales/use tax to the transfer of an aircraft from a subsidiary to its parent.

STATEMENT OF FACTS

The taxpayer (subsidiary) plans to transfer an aircraft that it owns to its 100% parent. There are no liens or loans outstanding on the aircraft, and the transfer will be effected pursuant to corporate resolutions indicating the transfer is for no consideration and no loans or liens exist.

DISCUSSION

IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana. IC 6-2.5-3-2 imposes use tax on the storage, use or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction (note that an isolated or occasional sale of an aircraft is a retail transaction), regardless of the location of that transaction or the retail merchant making that transaction. IC 6-2.5-4-1 defines a "retail transaction" as a transfer of tangible personal property for consideration. Here, there is a transfer of tangible personal property, however, there is no consideration given to the taxpayer (subsidiary) by the parent in any form (payment by the parent of any outstanding debt on the aircraft would be "consideration") for the transfer of the aircraft. As a result there is no execution of a retail transaction, hence, the transfer of the aircraft is not subject to sales/use tax.

RULING

The Department rules that the transfer of an aircraft from the taxpayer (subsidiary) to its parent for no consideration is not subject to sales/use tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.